



bulletin



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

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Excellence in North Dakota public education through local school board governance ■ VOL XLIII ISSUE 5

66th Legislative Assembly Finishes in 76 Days

The 66th Legislative Assembly of the State of North Dakota adjourned sine die at about 10 p.m. on Friday, April 26. The final bill to be voted on was SB 2015, which was originally the Office of Management and Budget's appropriation bill. The bill eventually became a "catch-all bill" and included a multitude of amendments—some of which pertained to education. While there were some missed opportunities, school districts and education fared well this session. A selection of the top issues is described below.

SB 2265 is likely the most significant piece of education-related legislation passed this session. It establishes changes to the policy for implementing the K-12 funding formula and was the "catch-all" bill for issues germane to education. The bill contained several sections too numerous to cover here, but the following are a few of the key highlights:

- Increases the per pupil payment by 2% for each year of the biennium, from \$9,646 to \$9,839 for 2019-20 and \$10,036 for 2020-21. School districts that are paid on the transition minimum receive a 1% increase each year of the biennium and districts that are paid on a transition maximum receive a 5% increase each year of the biennium. Any new students for districts that are paid on a transition minimum will be paid on the per pupil payment rate of \$9,839 and \$10,036 respectively. For the 2021-22 school year, the baseline funding adjustment will be reduced by 15%.

- Resets the baseline funding in the integrated formula using the 2018-19 formula payments and students used to determine those payments (ADM). Makes adjustments to provide limited "on-time" state aid during the 2020-21 school year for school districts that have rising enrollment.

- If a school district receives tuition for a student who is not a resident of this state and this state has not entered into an agreement with the resident state, that revenue will not be deducted as in lieu of

property taxes. If a school district meets certain criteria, tuition received from a bordering district will not be deducted as in lieu of property taxes. The districts that meet said criteria are also allowed to charge 200% of tuition or \$4,000, whichever is greater. The revenue received as in lieu of property taxes will be reduced by the percentage of their sinking and interest mills compared to their total levy. After this calculation, all in lieu of property taxes will be deducted at 75%.

- Changes the requirement to have a minimum of 175 instructional days to hours (962.5 hours for elementary and 1,050 for middle and high school students) and adds a third day of professional development for teachers as a requirement in the school calendar. Also clarifies that school districts intending to operate a four-day week must apply for a waiver with the superintendent of public instruction.

- Adds current or new evidence-based behavior prevention to the list of approved professional development topics for teachers and administrators.

- Requires the superintendent of public instruction to create a process for reinstatement and recertification of title 1 credentials for individuals in the state who previously held a valid certification.

- Appropriates \$3,000,000 for rapid enrollment grants to be distributed by the superintendent of public instruction for the 2019-20 school year to school districts that meet certain criteria. Appropriates \$800,000 for music education grants distributed using the previous year's average daily membership. Appropriates \$200,000 for research-based literacy intervention as matching funds.

- Creates an education funding formula review committee to review K-12 funding during the 2019-20 interim. The membership of the committee consists of the chairmen of the standing education committees of the House of Representatives and the Senate; three additional members of the Senate,

two of which must be appointed by the majority leader of the Senate and one of which must be appointed by the minority leader of the Senate; and three additional members of the House of Representatives, two of which must be appointed by the majority leader of the House of Representatives and one of which must be appointed by the minority leader of the House of Representatives. Members appointed to the committee must have a secure knowledge of the current kindergarten through grade twelve funding formula. The committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the 67th Legislative Assembly.

- Requires the Department of Public Instruction, the Indian Affairs Commission, and the kindergarten through grade twelve coordinating council to study during the 2019-20 interim the effect of impact aid on the funding formula to reservation schools. The Department of Public Instruction, the Indian Affairs Commission, and the kindergarten through grade twelve coordinating council shall report their findings and recommendations, together with any legislation required to implement the recommendations, to the 67th Legislative Assembly.

HB 1454 increases the bidding threshold from \$25,000 to \$50,000 and exempts entirely from the bidding requirements cooperative purchases made pursuant to a joint powers agreement under NDCC chapter 54-40.3. This new exception will allow school districts to enter into cooperative purchasing agreements with other school districts, REAs, or out-of-state governmental units without the need to separately or independently follow the bidding requirements in NDCC 15.1-09-34.

HB 1332 gives school districts the option of employing an "armed first responder" with the ability to carry

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Legal Spotlight

Hiring a Third-Party Investigator: The Exception, Not the Rule

by Amy De Kok, NDSBA Legal Counsel

Just like any other employer, public or private, public schools need to be prepared to deal with employee misconduct. There comes a time for every school district when it becomes aware of a complaint, an accusation, alleged employee misconduct, or other similar situation requiring some sort of action. No employer is immune. School officials should have a working knowledge of the process of handling allegations of employee misconduct and, preferably, before receiving such a complaint or accusation. School districts, like any other employer, have a legal obligation to take prompt and appropriate action to address confirmed inappropriate conduct on the part of their employees. This includes conducting an effective investigation.

Choosing the right investigator is an important step in the investigation process. School officials will need to determine who should investigate a particular allegation of misconduct. Often times, this will be set by school board policy and which particular policy applies will depend on the subject matter of the alleged misconduct. However, absent a policy instructive on this point, the school district may need to

choose an appropriate investigator. In short, an appropriate investigator should be neutral and objective and not appear biased. The investigator should also have strong interviewing skills and the ability to ask difficult questions while being sufficiently sensitive to obtain honest, factual answers. The investigator should not have a vested interest in the outcome of the investigation. Ordinarily, the superintendent or other administrator will conduct an investigation of employee misconduct. If the superintendent is the alleged wrongdoer, then typically the school board president will conduct the investigation.

But, what happens when the designated individual is unable or unwilling to fill the role as investigator? One option is for a district to involve an outside third party to conduct the investigation. To be clear, hiring a third party to conduct an internal investigation should be the exception, not the rule. School districts should be equipped to handle internal investigations in most instances. However, there are certainly times when bringing in a third party makes sense. The school district typically has a lot of flexibility in choosing the third-party investigator, but such individual should meet all of the criteria

of an appropriate investigator discussed above. In addition, a district should also factor in the potential cost of bringing in an outside third-party investigator. One option that some districts have chosen in these situations is to have their outside legal counsel conduct the investigation. This may make sense in a given situation; however, there are a few items the district should keep in mind before choosing this option. First, if a district uses their outside counsel in this capacity, it is possible that the attorney-client privilege will be lost or greatly limited. Also, outside counsel, by conducting the underlying investigation, would likely become a fact witness in any subsequent due process proceeding or lawsuit, which would likely disqualify them from representing the district in such proceeding or lawsuit. Finally, using the district's regular outside counsel may render the investigation biased or provide the appearance of bias.

In summary, a district should be careful and thoughtful in choosing an appropriate third-party investigator as it can have a significant impact on the investigation and the outcome. Please feel free to contact NDSBA for additional resources relating to the investigation of employee misconduct.

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EDITOR

Alexis Baxley

PUBLISHER

North Dakota School Boards Association
PO Box 7128
Bismarck, ND 58507-7128

TELEPHONE 1-800-932-8791

LOCAL (701)255-4127

FAX (701)258-7992

WEB SITE www.ndsba.org

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ND Students Lead Nation in AP Exam Success

State School Superintendent Kirsten Baesler said last month that the Advanced Placement

test pass rate for North Dakota students jumped 55 percent over three years—the highest percentage increase in the nation. Baesler said the rise was spurred by the North Dakota Legislature's support of Advanced Placement test-takers that began in the spring of 2016 and by the efforts of the National Math and Science Initiative, which has encouraged AP instruction in North Dakota high schools since the 2016-17 school year.

In 2016, North Dakota students got a passing score of 3 or greater on 1,520 Advanced Placement exams. In 2018, North Dakota students got a

passing score on 2,352 exams—a 55 percent increase. The number of exams taken rose 77 percent during the same period, from 2,378 in 2016 to 4,208 in 2018.

North Dakota's percentage increase of successful Advanced Placement results from 2016 to 2018 was the highest in the country. The District of Columbia, at 28 percent, was second, followed by Louisiana (27 percent), Hawaii (25 percent), Mississippi (21 percent), and Rhode Island (19 percent).

Baesler said students who successfully complete Advanced Placement courses while in high school are better prepared for post-secondary education, aside from the benefit of earning college credit at a substantial savings over normal tuition expenses.

Social Studies Teachers Travel to Germany



North Dakota teachers, their German hosts, and Dr. Robler outside of the Saxony State Parliament building.

by Dr. Jon Martinson

Twelve North Dakota teachers were selected to participate in the 2019 study/tour of Germany from March 29-April 7. On route to Germany, the group spent time in Amsterdam and toured the Anne Frank house. Most adults are familiar with the story of the Frank family through history classes and the book *The Diary of a Young Girl*. The family hid from the Nazis in 1942 by living in a secret annex for two years until they were discovered. Those in hiding were taken to concentration camps and Anne died of typhus in the Bergen-Belsen camp in 1945.

From Amsterdam, participants flew to the German state of Saxony located in former East Germany where 40 years behind the Iron Curtain continues to reverberate. Teachers spent time in Dresden and Freiberg where they were

introduced to a broad range of subjects from politics and business to German education and culture. Of particular interest was the opportunity to learn about life before German reunification and how modern Saxons think about their former lives in a socialistic state.

One main purpose of the trip was to learn about the German system of education, which differs dramatically from the approach in the United States. In an effort to better understand some differences in teaching and learning, North Dakota teachers visited a Gymnasium, or German high school. They sat in on a class and spoke one-on-one with high school juniors. Educators in Saxony do not rely as much on technology in their classrooms, which they think is a good thing. German students begin to learn English in the third grade and they select a second language in the sixth grade.

On another day, teachers met with Dr. Matthias Robler, president of the Saxon State Parliament. Participants discussed a wide range of issues including German reunification, German-American relations, and the education system throughout Germany with particular emphasis on the state of Saxony.

Also on the travel itinerary was a trip to the former Buchenwald concentration camp, now a memorial, near the city of Weimar. Between 1937 and 1945,

nearly 280,000 persons from more than 50 nations were held captive there. Among those prisoners was Elie Wiesel, Nobel Laureate and author of 57 books including *Night*, a work based on his experience as a Jewish prisoner in the Auschwitz and Buchenwald camps.

North Dakota teachers participating in the study tour were:

Darin Baltezare, Finley-Sharon Public School

Jordan Brown, New Rockford-Sheyenne Public School

Tom Bushaw, Legacy High School, Bismarck

Jesse Cook, Minot High School

Erick Counts, Devils Lake High School

Ashley Crosby, North Border School District (Walhalla)

Beth Ekre, 2009 North Dakota Teacher of the Year

Kristi Hanson, Jamestown Middle School

Michelle Hornseth, Mott-Regent Public School

Brooks Stafslie, Stanley High School

Waylan Starr, Valley City High School

Spencer Timm, Richland #44

(Abercrombie-Colfax)

The trip was sponsored by the North Dakota Department of Public Instruction and the North Dakota School Boards Association, with funding provided by the North Dakota Legislature and Global Bridges, a Berlin-based organization whose mission is to build bridges between countries, political camps, and cultures and between young leaders and senior executives.

■ Legislative Assembly Finishes in 76 Days

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a concealed weapon, provided that individual completes extensive firearms and emergency response training, passes a criminal background check and a physical and mental health exam, and has a North Dakota class 1 permit for carrying a concealed weapon. The new law requires the Department of Public Instruction to develop rules for the armed first responder program and review security plans from school districts that want to participate. Those plans also must be vetted by local law enforcement and the state homeland security department.

HB 1347 addresses the nonrenewal of the contract of a first-year teacher. The new law replaces “first-year teacher” with “probationary teacher” and extends the period of time after

which a public school teacher in North Dakota achieves “tenure” status from one year after licensure to completion of two years of employment with a district. Once teachers achieve “tenure” status, their contract cannot be nonrenewed unless certain notice is provided and a due process hearing is completed. Under the new law, the contract of a teacher who has been employed with a district for less than two years can be nonrenewed by the board after reviewing the teacher’s written evaluations and meeting with the teacher in an executive session to discuss the reasons for the contemplated nonrenewal. No formal due process hearing is required. The new law also expressly allows a board to waive the probationary/non-tenured status of a teacher with at least two years

of experience teaching in the state and must offer, as needed and based on the teacher’s evaluation, a teacher mentoring program for probationary teachers. The new law becomes effective August 1.

A complete legislative wrap up is available at www.ndsba.org. Now that all of the bills have been signed, NDSBA staff has begun working on guidance regarding policy changes and new requirements. We will distribute that information as we finalize it, but please don’t hesitate to contact us with any questions.

NDSBA would like to offer a special thank you to the members who served on our legislative committee – we would not have had as successful of a session without your expertise and commitment.



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Department of Education Invites Grant Applications

Last year, Congress updated the Perkins Career and Technical Education Act, including authorizing a new CTE innovation and modernization grant. In mid-April, the U.S. Department of Education invited school districts and other eligible applicants to apply for the grants for the first time. Among other investments, grantees will be able to use the funding to upgrade technology and take steps to make technology use more effective. Funds may also be used to expand, develop, or implement programs designed to increase opportunities for students to take rigorous courses in coding or computer science. The program is small; the Department of Education expects to award approximately six grants with an estimated size of \$450,000, but it offers an opportunity for districts interested in launching or building on efforts to develop more technologically focused CTE programs. **Applications must be submitted no later than June 14, 2019.** For more information visit <https://www.federalregister.gov/d/2019-07456>.



Glenburn School District
Position: Superintendent/HS Principal
Contact: Jennifer McNamara
Phone: 701-694-2711
Email: jennifer.mcnamara@k12.nd.us
Deadline: Until Filled
Position Begins: July 1, 2019

NDSBA includes member school superintendent vacancies in the *Bulletin* upon request. Email your vacancy information to alexis.baxley@ndsba.org.



North Dakota Indian Education Summit

Hosted by NDDPI and NDIAC
July 11-12, 2019
State Capitol, Bismarck

Board Member Boot Camp

Hosted by NDDPI and NDSBA
July 22, 2019
State Capitol, Bismarck

ND Rural School Summit

Hosted by NDDPI and NDSOS
September 25, 2019
State Capitol, Bismarck

2019 NDSBA Annual Convention

October 24-25, 2019
Ramkota Hotel, Bismarck

2020 NDSBA Negotiations Seminar

February 6-7, 2020
BSC National Energy Center of Excellence, Bismarck

2020 NDSBA Annual Convention

October 29-30, 2020
Ramkota Hotel, Bismarck

